

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

DALLAS COUNTY: JAMES G.)
CLARK, JR., Sheriff of)
Dallas County, Alabama;)
BLANCHARD MCLEOD, Circuit)
Solicitor of the Fourth)
Judicial District of Ala-)
bama; HENRY REESE, County)
Solicitor of Dallas County,)
Alabama,)

Defendants.)

CIVIL ACTION NO. _____

PROPOSED ORDER TO SHOW CAUSE
AND TEMPORARY RESTRAINING ORDER

It appearing from the affidavits of Bernard Lafayette, Jr., Bosie Reese, Alexander L. Brown and James E. Gildersleeve, filed by the plaintiff in support of its application for a temporary restraining order and order to show cause that pursuant to the request of Negro citizens of Dallas County, Alabama, Bernard Lafayette, Jr., Field Secretary of the Student Non-Violent Coordinating Committee, came to Dallas County, Alabama on February 10, 1963 for the purpose of assisting in a Negro voter registration drive and has remained there until the present time; that Bernard Lafayette, Jr., helped organize classes in Dallas County, Alabama to teach eligible Negroes

the procedure of voting registration, to recruit young people of Dallas County to assist him and the Voters' League, organized mass meetings to encourage interest in voting registration and gave publicity to all these activities; that the leadership of Bernard Lafayette, Jr. resulted in a significant increase of interest in voter registration and attempts to register to vote among Negro citizens of Dallas County; that on June 11, 1963 Bernard Lafayette, Jr. was attacked and beaten by an unidentified white man; that on June 17, 1963 Bosie Reese who was in the Dallas County Courthouse to observe voter registration and report his observations to the Voters' League, was ordered to leave the courthouse by defendant Dallas County Sheriff James G. Clark; that Bosie Reese obeyed this order but, when he subsequently re-entered the courthouse, was arrested by Sheriff Clark and charged with conduct calculated to provoke the breach of the peace and resisting arrest; that on the evening of June 17, 1963 Bernard Lafayette, Jr. spoke at a mass meeting in Dallas County and urged Negroes in Dallas County to register to vote and that Sheriff Clark had agents inside the mass meeting reporting and recording what was said; that on the night of June 18, 1963 Bernard Lafayette, Jr. was arrested by deputies of Sheriff Clark and charged with vagrancy on an affidavit sworn out by Sheriff Clark; that on June 20, 1963 Bernard Lafayette, Jr. was tried for vagrancy and, there being no foundation to the charge, was acquitted; that on June 20, 1963 the trial of Bosie Reese was postponed until June 27, 1963; that the purpose of the defendants in arresting, detaining and prosecuting, without any legal foundation or cause, Bosie Reese and Bernard Lafayette, Jr. was to intimidate,

threaten and coerce Negro citizens of Dallas County from applying for registration to vote and to intimidate, threaten and coerce Negro citizens of Dallas County and other Negro citizens from encouraging and instructing and assisting Negro citizens in Dallas County to register to vote; that unless a temporary restraining order is granted as prayed for the plaintiff will suffer great irreparable injury before the matter can be heard on notice because the serious legal consequences which Bosie Reese and Bernard Lafayette, Jr. have suffered and the serious legal consequences which Bosie Reese will suffer have intimidated, threatened and coerced unregistered Negro citizens of Dallas County from exercising their present right under the Constitution and laws of the United States to register to vote and to vote in any election, including elections for candidates for federal offices; all to the immediate and irreparable injury to the plaintiff.

And the Court being of the opinion that this is a proper case for the granting of an order to show cause and a temporary restraining order, now therefore,

IT IS HEREBY ORDERED that each of the defendants named in the Complaint appear before this Court in the courtroom of the Federal District Court for the Southern District of Alabama at the Post Office Building in _____, Alabama, at _____ o'clock _____ m., on the _____ day of _____, 1963, then and there to show cause, if any they have, why they, and each of them, and any of their agents, employees, representatives, and all persons in active concert or participation with said defendants should not be enjoined and

restrained from engaging in, or performing, directly or indirectly, any and all of the following acts:

- (a) Intimidating, threatening, coercing, or attempting to intimidate, threaten or coerce any person for the purpose of interfering with the right of that person or any other person to become registered to vote and vote in Dallas County, Alabama, for candidates for federal office, or punishing any person for having registered or attempted to register to vote and vote for any such candidates;
- (b) Striking, threatening to strike, arresting, threatening to arrest, holding in custody, prosecuting or attempting to prosecute any person in the Courts of the State of Alabama for the purpose of interfering with the right of any Negro citizen to become registered or to vote in Dallas County and to vote for candidates for federal office, or for punishment for having previously registered or voted, or engaging in any act or practice which would deprive any Negro citizen of Dallas County, Alabama of any such right or privilege;
- (c) Proceeding with the prosecution, failing to return the bond monies or release the sureties on the bond in connection with the prosecution of Bosie Reese in the courts of the State of Alabama on the

charges for which he was arrested on

June 17, 1963.

IT IS FURTHER ORDERED that pending the hearing of the order to show cause, the defendants, and each of them, and their agents, employees, representatives, and all persons acting in concert or participation with them, shall be and hereby are restrained and enjoined from engaging in, or performing, directly or indirectly, any and all of the following acts:

Proceeding with the prosecution, failing to return the bond monies or release the sureties on the bond in connection with the prosecution of Bosie Reese in the courts of the State of Alabama on the charges for which he was arrested on June 17, 1963.

IT IS FURTHER ORDERED that a copy of the affidavits and the application, together with a copy of this order to show cause and temporary restraining order, and a copy of the Complaint be served by the United States Marshal of this District on the defendants forthwith.

Dated this _____ day of June, 1963 at

_____ o'clock _____ m.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CIVIL ACTION NO. _____
)	
v.)	<u>APPLICATION FOR AN ORDER</u>
)	<u>TO SHOW CAUSE AND TEMPOR-</u>
)	<u>ARY RESTRAINING ORDER</u>
DALLAS COUNTY, ALABAMA,)	
ET AL.,)	
)	
Defendants.)	

The plaintiff applies to the Court for an Order to Show Cause and a Temporary Restraining Order as set forth in the proposed order to show cause and temporary restraining order attached hereto and made a part thereof.

This application is based on the pleadings on file, the affidavits of Alexander Lionel Brown, Bosie Reese, James E. Gildersleeve, Bernard Lafayette, Jr., a Memorandum of Law, which is attached hereto and made a part hereof, and a transcript of the trial of Bernard Lafayette, Jr. on June 20, 1963, which is attached hereto and made a part hereof.

JOHN DORR
Attorney
Department of Justice

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Dallas County, Alabama,
et al,

Defendants.

CIVIL ACTION NO. _____

NOTICE OF MOTION AND MOTION
FOR A PRELIMINARY INJUNCTION

TO THE DEFENDANTS, AND EACH OF THEM:

You are notified that plaintiff, United States of America, will move this Court in the Court of the United States District Court for the Southern District of Alabama, in _____, Alabama, on the _____ day of _____, 1963 at _____ .m. or as soon thereafter as counsel can be heard for a preliminary injunction enjoining and restraining during the pendency of this action, the defendants, their agents, servants, employees and all persons in active concert or participation with them, from:

(a) Intimidating, threatening, coercing,

or attempting to intimidate, threaten or coerce any person for the purpose of interfering with the right of that person or any other person to become registered to vote and vote in Dallas County, Alabama, for candidates for federal office, or punishing any person for having registered or attempted to register to vote and vote for any such candidates;

(b) Striking, threatening to strike, arresting, threatening to arrest, holding in custody, prosecuting or attempting to prosecute any person in the Courts of the State of Alabama for the purpose of interfering with the right of any Negro citizen to become registered or to vote in Dallas County and to vote for Candidates for federal office, or for punishment for having previously registered or voted, or engaging in any act or practice which would deprive any Negro citizen of Dallas County, Alabama of any such right or privilege.

(c) Proceeding with the prosecution, failing to return the bond monies or release the sureties on the bond in connection with the prosecution of Bosic Reese in the courts of the state of Alabama on the charges for which

he was arrested on June 17, 1963.

This motion will be based on this Notice of Motion and Motion for a Preliminary Injunction, the pleadings, papers, and affidavits on file in this case and upon oral testimony to be adduced.

VERNOL R. JANSEN, JR.
United States Attorney

JOHN DOAR
Attorney
Department of Justice

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	NO.
)	
DALLAS COUNTY, ALABAMA,)	
ET AL.,)	
)	
Respondents.)	

PETITION FOR AN INJUNCTION

Comes now the United States, by its attorneys, and requests this Court to issue an injunction, pursuant to 28 U.S.C. 1651, to the respondents in the above-entitled case, restraining them, pending appeal or pending a ruling by the United States District Court for the Southern District of Alabama on the motion of the United States for a preliminary injunction, from proceeding further with the trial of Bosie Reese, in the Courts of Dallas County, Alabama, on the pending criminal charges against him.

The principal facts of the case are as follows:

Bernard Lafayette is a Negro citizen of the United States and a field secretary in Alabama of the Student Non-Violent Coordinating Committee, an organization which has recently been conducting a Negro voter registration drive in Dallas County, Alabama. Bosie Reese is a Negro citizen

of the United States and a resident of Dallas County who has also participated in the voter registration drive. On June 18, 1963, Lafayette was arbitrarily arrested by the defendant Clarke and charged with vagrancy. He was held in jail overnight and released the following afternoon. At his trial on June 20, 1963 in the Dallas County Court, in Selma, Alabama, Lafayette was acquitted after the prosecution failed to produce any substantial evidence of vagrancy. On June 17, 1963, Bosie Reese, was arrested on a charge of resisting arrest and engaging in conduct calculated to cause a breach of the peace. At the time of his arrest, he was obeying a direction to leave the Dallas County courthouse. The Sheriff, and other white men, manhandled him and interrogated him about the activities of Lafayette and other registration workers. Reese remained in jail until June 20, 1963, at which time he was released on bail. Reese's trial is scheduled for Thursday, June 27, 1963, at 10:00 a.m. Like Lafayette, Reese is innocent of the offenses charged or of any wrongdoing whatever. The complaint alleges that the purpose of arrest, detention and prosecution of each of these men was to intimidate and punish them for their voter registration activities.

The United States contends that if the trial of Reese is allowed to proceed, irreparable injury will result and the cause will be mooted. Thus, the ultimate appellate jurisdiction of this Court should be protected by injunctive relief pending determination of the merits of the

cause. Whenever appellate review will be thwarted by an order of a lower court, the appellate tribunal may use the all-writs statute, 28 U.S.C. 1651, to preserve its ultimate jurisdiction. United States v. Wood, 295 F.2d 771 (C.A. 5, 1961). In the Wood case, which in all relevant respects is identical to the present one, this Court granted the same relief as that requested here.

WHEREFORE, the United States prays that this Court issue an injunction to the respondents restraining them from proceeding further with the trial of Bosie Reese on charges of resisting arrest and conduct calculated to create a breach of peace pending appeal or pending decision by the District Court on the Government's motion for preliminary injunction.

JOHN DOAR
Attorney
Department of Justice

June 1963

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

DALLAS COUNTY, ALABAMA,
ET AL.,

Defendants.

CIVIL ACTION NO. 3064-63

ORDER

A Motion for a Temporary Restraining Order having been this date presented by the plaintiff in this cause, and the Court having considered the pleadings and affidavits and being of the opinion that the Motion for a Temporary Restraining Order should be denied,

IT IS ORDERED that plaintiff's Motion for a Temporary Restraining Order be and the same is hereby denied.

ORDERED and ADJUDGED this 26th day of June, 1963.

5:27 P.M.

DANIEL H. THOMAS
UNITED STATES DISTRICT JUDGE

A TRUE COPY:

ATTEST:

WILLIAM J. O'CONNOR, CLERK.

By William J. O'Connor

-Deputy Clerk-

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. _____

UNITED STATES OF AMERICA, APPELLANT

v.

DALLAS COUNTY, ALABAMA, ET AL., APPELLEES

APPLICATION FOR AN INJUNCTION PENDING A
HEARING BY THIS COURT

TO THE HONORABLE JUDGE, _____
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Comes now the United States of America, by its attorney,
and respectfully moves the Court to issue an injunction
restraining the criminal proceedings now pending in the
County Court of Dallas County, Alabama, against Bosie Reese,
a Negro, during the pendency of a hearing by this Court on
the Petition for Injunction of the United States, or until
further order of this Court.

On June 26, 1963, the United States filed a complaint
against the defendants Dallas County, Alabama; James Clarke,
Sheriff of Dallas County; Blanchard McLeod, Circuit Solicitor
of the Judicial Circuit in Alabama; and Henry Reese, County
Solicitor, 4th Judicial Circuit, Dallas County, Alabama,

under the provisions of 42 U.S.C. 1971(b) and (c), alleging that the defendants have deprived Negro citizens of Dallas County, Alabama, of the right and privilege to be free from threats, intimidation or coercion, whether actual or attempted, for the purpose of interfering with the rights and privileges of such Negro citizens to register and to vote for candidates for federal office, as more fully appears from the complaint and affidavits in the record.

On June 17, 1963, the defendant James C. Clark, Jr., Sheriff of Dallas County, arrested Bosie Reese, a Negro citizen of Dallas County who has been participating in Negro voter registration classes and similar activities in Dallas County, on charges of resisting arrest and of conduct calculated to breach the peace. On June 18, 1963, defendant Clark arrested Bernard Lafayette, Jr., a Negro, field secretary for the Student Non-Violent Coordinating Committee, who has been leading and helping to organize a Negro voter registration drive in Dallas County, Alabama, on a charge of vagrancy. Both men were released on bond, Reese after spending three days in jail and Lafayette after spending one. The charges against both men are entirely baseless and without any foundation in fact. On June 20, Lafayette was tried in the Dallas County Court on the charge of vagrancy. The prosecution was unable to present any substantial evidence against him and he was acquitted. The trial of Bosie Reese has been scheduled for June 27, 1963, at 10:00 a.m. in the Dallas County Court.

On June 26, 1963, the United States submitted to the Honorable Daniel Thomas, United States District Judge for the Southern District of Alabama, an application and supporting papers for a temporary restraining order to enjoin the defendants from engaging in threats, intimidation, coercion, or attempts to threaten, intimidate, or coerce, by any means including prosecution in the State Courts of Alabama, other persons, for the purpose of interfering with their right to register and to vote for candidates for federal office. On June 26, 1963, Judge Thomas denied the application.

The United States requested the District Court to certify the denial of the application under the Interlocutory Appeals Act (28 U.S.C. 1292(4)(b)). This was denied. The United States requested the Court below to stay the effect of its order pending appeal to this Court. This was denied.

On June 26, 1963, the United States filed with the Court a Petition for Injunction requesting an order to preserve the status quo of the criminal proceedings against Bosie Reese, pending appeal and pending a hearing by the District Court on the Motion of the United States for a Preliminary Injunction. As more fully appears from the petition, the United States will suffer irreparable injury if the illegal and unlawful arrest of Bosie Reese is consummated by further prosecution of the pending criminal proceedings against him.

WHEREFORE, the United States respectfully moves the Court to issue an order enjoining the defendants Dallas County, Alabama; James G. Clark, Jr., Sheriff of Dallas County, Alabama; Blanchard McLeod, Circuit Solicitor of the Fourth Judicial District of Alabama; Henry Reese, County Solicitor of Dallas County, Alabama, their officers, agents, servants, employees and attorneys, and persons acting in concert with them, during the pendency of a hearing by this Court on the petition of the United States for an injunction, and until further orders of this Court from

Proceeding with the prosecution of Bosie Reese in the Courts of the State of Alabama on the charges for which he was arrested on June 17, 1963.

JOHN DOAR
Attorney
Department of Justice

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PROPOSED ORDER
NOT SIGNED
JAM.

No. _____

UNITED STATES OF AMERICA, APPELLANT

v.

DALLAS COUNTY, ALABAMA, ET AL.,
APPELLEES

O R D E R

The United States of America having filed a petition for injunction requesting this Court to preserve the status quo pending appeal or pending a hearing by the District Court on a motion for a preliminary injunction by the United States, and good cause being shown:

IT IS ORDERED that the defendants Dallas County, Alabama; James G. Clark, Sheriff of Dallas County; Blanchard McLeod, Circuit Solicitor of the Fourth Judicial Circuit in Alabama; and Henry Reese, County Solicitor, Dallas County, Alabama, their officers, agents, servants, employees and attorneys and persons acting in concert or participation with them be and the same are hereby enjoined and restrained during the pendency of a hearing by this Court on the petition for an injunction of the United States or until further order of this Court from proceeding or attempting to proceed with the pending

criminal prosecution of Bosie Reese in the State courts of Alabama on June 27, 1963, on the charges of resisting arrest and engaging in conduct calculated to disturb the peace, and thereafter until further order of this Court.

IT IS FURTHER ORDERED that a hearing is set on the petition for an injunction requesting this Court to preserve the status quo pending an appeal in this case or pending a hearing by the District Court on the motion for a preliminary injunction on the _____ day of _____, 1963, at _____ o'clock, _____ m., at _____.

That a copy of this Order be served forthwith on each of the defendants by the United States Marshal or his Deputy for the Southern District of Alabama before 9:30 a.m., June 27, 1963.

Done this _____ day of June, 1963.

CIRCUIT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
DALLAS COUNTY, ALABAMA,)
ET AL.,)
)
Defendants.)
_____)

CIVIL ACTION NO. 2464-

NOTICE OF APPEAL

Notice is hereby given that the United States of America, plaintiff, hereby appeals to the United States Court of Appeals for the Fifth Circuit from the Order of this Court dated June 26, 1963 denying plaintiff's motion for a temporary restraining order in the above-entitled case.

JOHN DOAR
Attorney
Department of Justice

U.S. DIST. ALA.
FILED IN CLERK'S OFFICE

JUN 26 1963

WILLIAM L. O'CONNOR

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

CIVIL ACTION NO. _____

DALLAS COUNTY, ALABAMA,)
ET AL.,)

Defendants.)

U R D E R

The Motion of the plaintiff for a Temporary Restraining Order enjoining the prosecution of a criminal action by the State of Alabama against Bosie Reese in the County Court of Dallas County, commencing at 9:00 a.m. on June 27, 1963, having been denied this date and the plaintiff thereupon orally requesting interlocutory appeal to the United States Court of Appeals for the Fifth Circuit under 28 U.S.C. 1292, and this Court being of the opinion that the issues before the court do not involve a controlling

question of law as to which there is substantial grounds for a difference of opinion and the immediate appeal will not materially advance the ultimate determination of litigation.

It is therefore ORDERED that the request by the plaintiff to grant an interlocutory appeal be and the same is hereby denied.

ORDERED this ____ day of June, 1943.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES COURT OF APPEALS

FIFTH CIRCUIT

UNITED STATES OF AMERICA,

Petitioner,

v.

vs.

ALLAN KENT, GUARD,
ET AL.,

Respondents.

WRIT OF HABEAS CORPUS

The United States, by its attorneys, moves this court to dismiss the appeal taken by the United States from the order of the District Court of the Southern District of Alabama denying the United States Motion for Temporary Restraining Order, which Motion of appeal was filed on June 26, 1963.

The basis of this Motion is that following the denial of the United States Motion for a temporary restraining order by the District Court, the United States filed a Motion and Motion for a preliminary injunction and the United States desires to obtain a hearing on that Motion in the District Court at the earliest practicable date.

Dated June 27, 1963.

John R. Ror
Attorney
Department of Justice

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,

Petitioner,

v.

DALLAS COUNTY, ALABAMA,
ET AL.,

Respondents.

NO.

PER CURIAM ORDER

The Motion of the United States to dismiss its appeal which was filed in the District Court for the Southern District of Alabama on June 26, 1963, having been presented to the Court on the 27th day of June, 1963, and the Court being fully advised, Now therefore it is ORDERED that the appeal of the United States filed in the District Court for the Southern District of Alabama on June 26, 1963, be and the same is hereby dismissed.

Dated June 27, 1963.

Judge, Fifth Circuit

Judge, Fifth Circuit

Judge, Fifth Circuit

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA, NORTHERN
DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

CIVIL ACTION

**DALLAS COUNTY, JAMES G.
CLARK, JR., Sheriff of Dallas
County, Alabama; BLANCHARD
McLEOD, Circuit Solicitor of the
Fourth Judicial District of Alabama;
HENRY REESE, County Solicitor
of Dallas County, Alabama,**

FILE NO. 3064-63

Defendants.

MOTION TO DISMISS

Come the defendants, Dallas County, Alabama, a body corporate; James G. Clark, Jr., Sheriff of Dallas County, Alabama; Blanchard McLeod, Circuit Solicitor of the Fourth Judicial District of Alabama; Henry Reese, County Solicitor of Dallas County, Alabama, separately and severally, and move the Court to dismiss the complaint of the United States of America and each and every paragraph thereof, separately and severally, and in support of said motion, assign the following separate and several reasons:

1. Because it does not state a claim upon which relief can be granted.
2. The Court lacks jurisdiction in this cause.
3. For that a Court of the United States may not grant an injunction to stay proceedings in a State Court.
4. For that a Court of the United States may not grant an injunction to stay proceedings in a State Court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.
5. For that the Courts of the United States may not grant an injunction to stay proceedings in a State Court, except as expressly authorized by Act of Congress, and there is no Act of Congress that expressly authorizes

6. For that a Court of the United States may not grant an injunction to stay proceedings in a State Court, except where necessary in aid of its jurisdiction, and there is no necessity of the Court issuing an injunction in order to protect its jurisdiction in this case.

7. For that the complaint shows upon its face that it is an attempt by the United States of America to use the Courts of the United States to obtain an injunction to stay a proceedings in a sovereign State Court.

8. For that the Courts of Dallas County, Alabama, are Courts of a sovereign State.

9. For that the Courts of Dallas County, Alabama, are the Courts of a sovereign which has inherent power to enforce its criminal statutes against all persons within the boundaries of said sovereign State, and the United States of America is only a Government of delegated power and there has not been delegated to the United States of America the power to enjoin a sovereign State's criminal courts or its officers.

10. For that Title 42, U.S.C.A., Section 1971 does not authorize the maintenance of an action to restrain or enjoin a State criminal prosecution under a valid State Criminal Statute.

11. For that the Bill of Complaint of the United States of America shows upon its face that the Negro, Bernard Lafayette, received a fair trial in a Dallas County Court because he was acquitted.

12. For that the Complaint of the United States of America shows upon its face that the Courts of Dallas County, Alabama, administered justice fairly and that the Negro, Bernard Lafayette was acquitted.

13. For that the averment that the arrest and prosecution of Bernard Lafayette and Beale Reese "were and are without legal justification and or excuse" is a mere conclusion of the pleader.

14. For the allegation that the arrest and prosecution of Bernard Lafayette and Beale Reese "were and are without legal justification and or excuse and were and are for the purpose of intimidating, threatening, and coercing Negro citizens of Dallas County, from applying for registration to vote and for the purpose of preventing and discouraging these Negro citizens and other Negro citizens from encouraging and instructing and assisting Negro citizens in Dallas County, Alabama, to register to vote" is a mere conclusion of the pleader.

15. For that there are no facts set forth that would warrant this Court in arriving at the conclusion that the defendant, James G. Clark, Jr., acting as Sheriff of Dallas County, Alabama, arrested either Bernard Lafayette or Beale Reese for the purpose of intimidating them or coercing Negro citizens of Dallas County from applying for registration to vote.

16. For that an issuance of an injunction in this case would strip Dallas County of all law and order.

17. For that the issuance of an injunction in this case would strip Dallas County, Alabama, of the right or opportunity to enforce by its local officers law and order.

18. For that the complaint shows upon its face that Bernard Lafayette and Beale Reese have an adequate remedy at law.

19. For that the complaint shows upon its face that Beale Reese or any other Negro citizen that is arrested in Dallas County, Alabama, has an adequate remedy at law.

20. For that the allegation that the said Beale Reese was arrested and is to be tried in the Dallas County Court shows upon its face that the said Beale Reese has an adequate remedy at law, to-wit: an appeal from the Dallas County Court to the Circuit Court of Dallas County, Alabama, and if that he does not feel he has received justice by appeal to the Supreme Court of Alabama or the Court of Appeals.

14. For the allegation that the arrest and prosecution of Bernard Lafayette and Beale Reese "were and are without legal justification and or excuse and were and are for the purpose of intimidating, threatening, and coercing Negro citizens of Dallas County, from applying for registration to vote and for the purpose of preventing and discouraging these Negro citizens and other Negro citizens from encouraging and instructing and assisting Negro citizens in Dallas County, Alabama, to register to vote" is a mere conclusion of the pleader.

15. For that there are no facts set forth that would warrant this Court in arriving at the conclusion that the defendant, James G. Clark, Jr., acting as Sheriff of Dallas County, Alabama, arrested either Bernard Lafayette or Beale Reese for the purpose of intimidating them or coercing Negro citizens of Dallas County from applying for registration to vote.

16. For that an issuance of an injunction in this case would strip Dallas County of all law and order.

17. For that the issuance of an injunction in this case would strip Dallas County, Alabama, of the right or opportunity to enforce by its local officers law and order.

18. For that the complaint shows upon its face that Bernard Lafayette and Beale Reese have an adequate remedy at law.

19. For that the complaint shows upon its face that Beale Reese or any other Negro citizen that is arrested in Dallas County, Alabama, has an adequate remedy at law.

20. For that the allegation that the said Beale Reese was arrested and is to be tried in the Dallas County Court shows upon its face that the said Beale Reese has an adequate remedy at law, to-wit: an appeal from the Dallas County Court to the Circuit Court of Dallas County, Alabama, and if then he does not feel he has received justice by appeal to the Supreme Court of Alabama or the Court of Appeals.

of Alabama.

21. For that said complaint fails to aver any unlawful act committed by the defendant, James G. Clark, Jr. as Sheriff of Dallas County, Alabama.

22. For that said complaint fails to allege any unlawful act committed by Blanchard McLeod as Circuit Solicitor of the Fourth Judicial Circuit.

23. For that said complaint fails to aver any unlawful act committed by Henry F. Reese, County Solicitor of Dallas County, Alabama.

24. For that there is no allegation in said complaint that would in anyway connect the defendant, Blanchard McLeod as Solicitor of the Fourth Judicial Circuit, with any of the alleged acts committed by the defendant, James G. Clark, Jr. as Sheriff of Dallas County, Alabama.

25. For that there is no allegation in said complaint that would in anyway connect the defendant, Henry F. Reese as County Solicitor of Dallas County, Alabama, with any of the alleged acts committed by the defendant, James G. Clark, Jr. as Sheriff of Dallas County, Alabama.

26. For it is an attempt by the United States of America to enjoin Constitutional officers of the State of Alabama from enforcing the criminal statutes of the State of Alabama.

27. For that the United States of America does not possess the power to institute any such proceedings.

28. For that the only person that can institute any such proceedings would be a citizen of the United States.

29. For that the only persons that could institute the alleged proceedings would be Basil Reese or Edward Lafayette or some other Negro citizen.

30. For that the complaint shows upon its face that Beale Reese was not entitled to register as a voter in Dallas County, Alabama.

31. For that said complaint shows upon its face that Bernard Lafayette was not entitled to register as a voter in Dallas County, Alabama.

32. For that said complaint shows upon its face that Alexander L. Brown was a Negro from Birmingham, Alabama, and was not entitled to vote in Dallas County, Alabama.

33. For that there is no allegation that any person who was attempting to register to vote was intimidated or in anywise interfered with by any of the defendants.

34. It is beyond the power of Congress to authorize the United States to bring said action for the purpose of supporting a private Constitutional right.

35. For that Courts of Equity do not restrain criminal prosecutions.

36. For that no person is immune from prosecution in good faith for his alleged criminal acts.

37. For that the barrience of the acts, even though alleged to be in violation of Constitutional guarantees, is not a ground for equity relief since the lawfulness or Constitutionality of the Statute or Ordinance on which the prosecution is based may be determined as readily in the criminal case as in a suit for injunction.

38. For that the guilt or innocence of the Negroes that were arrested in Dallas County is a question to be decided by a criminal court and not a civil court.

39. For that the guilt or innocence of the Negroes that are alleged to have been arrested in Dallas County, Alabama, can be determined in the criminal courts of Alabama.

40. For that the guilt or innocence of the Negro defendants that were alleged to have been arrested in Dallas County, Alabama, can

be determined only by Courts of Alabama and not by Federal Courts.

41. For that the United States Court is without jurisdiction to determine the guilt or innocence of the Negroes that are alleged to have been arrested in Dallas County, Alabama, on criminal charges.

42. For that there is no allegation in said complaint that Dallas County, Alabama, or any of its officers participated in any alleged wrongful act.

43. For that it is not alleged in said complaint that Dallas County, Alabama, as a body corporate participated in any of the alleged acts of intimidation or coercion.

44. For that it is not alleged in said complaint that any of the defendants participated in any of the alleged acts of intimidation or coercion.

45. For that it is an attempt to substitute Federal authority for the Courts of the State of Alabama.

46. For that there is no party before this Court that could prevent the prosecution of the Negroes, Uncle Reese and Bernard Lafayette, for the violation of a criminal statute in the State of Alabama.

47. For that no extraordinary circumstances exist that would authorize a Federal Court to enjoin a State Court in a criminal prosecution.

Of Counsel for Defendants

RICHMOND M. FLOWERS
Attorney General of Alabama
Montgomery, Alabama

GORDON LADSON
Assistant Attorney General of Alabama
Montgomery, Alabama

THOMAS O. GAYLE
Attorney at Law
Selma, Alabama

W. McLEAN PLOTT
Firm & Pits
Attorney at Law

ATTORNEYS FOR DEFENDANTS

DEMAND FOR A LARGUMENT

The defendants, separately and severally, desire to present this Motion by oral argument to the Judge of the United States District Court for the Southern District of Alabama, Northern Division, at Mobile, Alabama.

Of Counsel for the Defendants

TO: Mr. Vernel R. Janson, Jr.
United States Attorney
311 Federal Building
Mobile, Alabama

You will please take notice that the foregoing motion has been this day forwarded to the Clerk of the United States District Court for the Southern District of Alabama, Northern Division, Mobile, Alabama, for filing and the same will be presented to Hon. Daniel H. Thomas, Judge of said Court, at such time and place as the Judge may designate.

NOTE: Made the 15 day of July, A. D., 1963.

Of Counsel for the Defendants

CERTIFICATE

I do hereby certify that a copy of the foregoing Motion and Notice was this day sent by United States Mail, postage prepaid, to Mr. Vernal E. Jansen, Jr., United States Attorney, 311 Federal Building, Mobile, Alabama, one of the attorneys of record for the plaintiff, United States of America.

DONN this the 15 day of July, A. D., 1843.

Of Counsel for the Defendants

IN THE UNITED STATES DISTRICT COURT OF THE

SOUTHERN DISTRICT OF ALABAMA

NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL 3064-63

DALLAS COUNTY JAMES C. WALKER, Sheriff,
Sheriff of Dallas County, Alabama;
BLANCHARD MCNEED, Circuit Solicitor of
the Fourth Judicial District of Alabama;
NEXBY F. ELDER, County Solicitor of Dallas
County, Alabama,

Defendants

Comes Dallas County, a body corporate, and moves this Court to
dismiss Dallas County as a party defendant to the above styled cause and
assigns the following ground for said motions

1. That Dallas County, a body corporate, is not a proper party
defendant to this cause.

T. G. Gayle
Attorney
Dallas County, Alabama

77 11 3 1963

DOCKETED

JUL 16 1963

Dockets
#13,728
~~*#13,727*~~

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ALABAMA

NOTICE OF HEARING ON PETITION FOR PRELIMINARY INJUNCTION AND MOTIONS
TO DISMISS

UNITED STATES OF AMERICA,)	
Plaintiff,)	
VERSUS)	CIVIL ACTION
DALLAS COUNTY, ET AL)	NO. 3064-63.
Defendants)	

TAKE NOTICE that the above-entitled case has been set for
HEARING ON THE PETITION FOR PRELIMINARY INJUNCTION AND MOTIONS
TO DISMISS, at MOBILE, ALABAMA, on THURSDAY MORNING, JULY TWENTY-FIFTH
(25TH), 1963, at NINE-THIRTY (9:30) O'CLOCK IN ROOM 229, UNITED STATES
COURT HOUSE AND CUSTOM HOUSE, ST. JOSEPH AND ST. LOUIS STREETS.

DATE: JULY 12TH, 1963.

WILLIAM J. O'CONNOR, CLERK,

BY: Dorothy Pettiss
Dorothy Pettiss,
Deputy Clerk

TO: Honorable Burke Marshall, Assistant Attorney General,
Washington, D. C.

Honorable John Dear, Attorney, United States Department of
Justice, Washington, D. C.

Honorable Vernel R. Jansen, Jr., United States Attorney,
Mobile, Alabama

Honorable Richmond M. Flowers, Attorney General,
Montgomery, Alabama

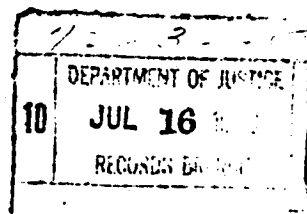
Honorable Gordon Madison, Assistant Attorney General,
Montgomery, Alabama

Honorable Blanchard McLeod, Solicitor,
Camden, Alabama

Honorable Henry Reese, Solicitor,
Selma, Alabama

Mr. Thomas G. Gayle, Attorney,
Selma, Alabama

Mr. W. McLean Pitts, Attorney,
Selma, Alabama



UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA,)
Plaintiff,)
VERSUS) CIVIL ACTION NO. 3064-63.
DALLAS COUNTY, ET AL,)
Defendants)

This cause comes on to be heard in open Court in Selma, Alabama, on July 25th, 1963, on the following:

1. Plaintiff's motion for a Preliminary Injunction,
2. Motion of the Defendants, DALLAS COUNTY, ALABAMA, JAMES G. CLARK, JR., Sheriff of Dallas County, Alabama; BRANCHARD McLEOD, Circuit Solicitor of the Fourth Judicial Circuit of Alabama; F. WAY REEDER, County Solicitor of Dallas County, Alabama, filed on July 9th, 1963, to dismiss the complaint and
3. Motion of the Defendant, DALLAS COUNTY, a body corporate, filed on July 5th, 1963, to dismiss the Defendant, DALLAS COUNTY, a body corporate, as a Party Defendant.

Arguments are heard on the motions as more fully hereinafter set out in Sections 1, 2 and 3 and,

THEREUPON, the motions are hereby taken under consideration by the Court and all parties shall submit or mail briefs or memoranda authorities by THURSDAY, AUGUST SIXTH (6TH), 1963.

Witnesses are examined and exhibits are offered in evidence on the Plaintiff's motion for a preliminary injunction and the Plaintiff rests.

Witnesses are further examined, exhibits offered in evidence and, The Court now stands in RECESS, pending further orders of the Court.

Made at Selma, Alabama, this the 25th day of July A. D., 1963.

U.S. DISTRICT COURT
SOUTHERN DIST. ALA.

FILED AND ENTERED THIS THE
25TH DAY OF JULY, 1963,
MINUTE ENTRY NO. 1536.4
WILLIAM J. O'CONNOR, CLERK,
BY:

John V. O'Brien
John V. O'Brien,
Chief Deputy Clerk

DANIEL H. THOMAS
DANIEL H. THOMAS,
JUDGE,
UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF ALABAMA

DOCKETED

SEP 20 1963

#13728

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

The following listed cases will come on to be heard in the United States District Court for the Southern District of Alabama on the Second Floor, OLD POST OFFICE BUILDING, SELMA, ALABAMA, on THURSDAY, OCTOBER 3RD, 1963 at 10:00 A.M.

CIVIL 2881 UNITED STATES OF AMERICA VS. NEELY B. MAYTON, ET AL.
Hearing on Plaintiff's Motion to Produce etc., and
Hearing on Order to Show Cause directed to members of
Board of Registrars of Perry County, Alabama entered
on September 9, 1963.

Arvid A. Sather, Vernol R. Jansen Jr., Attorneys for
United States
Richmond Flowers, Gordon Madison, Blanchard McLeod,
Attorneys for defendants.

CIVIL 2937 IN RE: HONORABLE JAMES A. HANE; BLANCHARD McLEOD;
AND JULIAN STEEN, FOREMAN OF THE WILCOX COUNTY,
ALABAMA, GRAND JURY.
Hearing on the merits of Application for Order to
require production of records.

Burke Marshall, John Doar, Vernol R. Jansen Jr.,
Attorneys for United States.
Richmond Flowers, Gordon Madison, Leslie Hall,
Attorneys for Defendants.

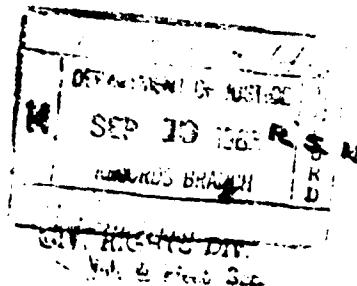
CIVIL 3064-63 UNITED STATES OF AMERICA VS. DALLAS COUNTY, ET AL.
Continuation of Hearing on Plaintiff's Motion for a
Preliminary Injunction and Motions to Dismiss filed
by defendant's herein.

Burke Marshall, John Doar, Vernol R. Jansen Jr.,
Attorneys for United States
Richmond Flowers, Gordon Madison, Blanchard McLeod,
Henry Reese, Thomas G. Gayle, W. McLean Pitts,
Attorneys for Defendants.

CIVIL 3081-63 UNITED STATES OF AMERICA VS. ARTHUR LOGUE, CECIL SKINNER
CECIL ROGERS, ETC.

Hearing on Motion to strike and Motion to dismiss filed
on July 30, 1963 by defendants; and
Motion for Names and Addresses of Persons having know-
ledge of the Relevant Facts, filed July 24, 1963 by
defendants.

Burke Marshall, John Doar, Vernol R. Jansen Jr.
Attorneys for United States.
Richmond Flowers, Gordon Madison, Leslie Hall,
Attorneys for Defendants.



A F F I D A V I T

CITY OF WASHINGTON)
DISTRICT OF COLUMBIA)

ss

Not filed

I, David H. Berlin, being first duly sworn, say:

1. I am an attorney with the United States Department of Justice.

2. As part of my official duties, I supervised a study of the voter registration records filed with the Dallas County, Alabama, Board of Registrars between January 1, 1962 through February 10, 1962. This study included a count of the numbers of applications for registration filed with the Dallas County, Alabama, Board of Registrars on specific days when registration activity was high.

3. This study disclosed that on February 3, 1962, the current Board of Registrars of Dallas County, Alabama, composed of Victor L. Atkins, Chairman, and Joseph Bibb and Aubrey L. Allen, received 83 applications from persons applying for registration to vote in Dallas County. In addition to receiving these applications on February 3, 1962, the Dallas County Board of Registrars also acted on 102 applications for registration which had previously been filed with the Board of Registrars from January 22, 1962 through January 26, 1962. The dates of the applications were taken from page 3 of the application form reflecting the date the applicant signed the Oath. The dates that the Board of Registrars acted on the applications were taken from the date of the Board action

reflected on page 4 of the accepted applications, or from the date of the Board action reflected on the notice of rejection relating to rejected applications.

4. The results of this study disclosed that, on the dates indicated, the following number of persons applied to the Dallas County Board of Registrars from 1952 to 1960 for registration, and were accepted or rejected, as indicated:

<u>Date of Application</u>	<u>Total of Applicants</u>	<u>Accepted</u>	<u>Rejected</u>
1/30/52	59	59	
1/12/54	50	50	
1/19/54	67	67	
1/21/54	69	69	
1/22/54	61	61	
1/23/54	67	67	
1/25/54	105	105	
1/26/54	121	121	
1/27/54	133	133	
1/28/54	161	161	
2/ 1/54	141	141	
2/15/54	114	114	
3/15/54	83	83	
4/ 5/54	119	119	
4/ 4/60	109	100	3
10/17/60	153	145	4
11/14/60	75	72	4

The dates that the applications were filed with the Board of Registrars were taken from page 3 of the application form reflecting the date the applicant signed the Oath. No rejected applications were available prior to 1960.

DAVID H. EARLIK

Sworn to and subscribed before
me this 11th day of October, 1963

Notary Public

My commission expires:

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 3064-63

DALLAS COUNTY: JAMES G.
CLARKE, JR., Sheriff of
Dallas County, Alabama;
BLANCHARD McLEOD, Circuit
Solicitor of the Fourth
Judicial District of Alabama;
HENRY REESE, County Solicitor
of Dallas County, Alabama,

Defendants.

For good cause appearing to the Court, it is ORDERED
and ADJUDGED that the hearing set in the above entitled
matter on October 3rd, 1963 be, and the same hereby is,
CONTINUED, to be re-set by the Court at a later date.

Dated this the 30th day of September, 1963.

DANIEL H. THOMAS
UNITED STATES DISTRICT JUDGE.

U. S. DISTRICT COURT
SOU. DIST. ALA.
FILED AND ENTERED THIS THE
30TH DAY OF SEPTEMBER, 1963
MINUTE ENTRY NO. 15687-8
WILLIAM J. O'CONNOR, CLERK,
BY- *W. J. O'Connor*
Deputy Clerk

CONTINUATION OF HEARING ON PLAINTIFF'S
NOTICE OF MOTION FOR A PRELIMINARY INJUNCTION

D. C. Form No. 18 (Rev. Sept. 1953)

Docket

United States District Court

FOR THE

SOUTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DALLAS COUNTY, ALABAMA, et al.

Defendants.

CIVIL ACTION

No. 3064-63.

DOCKETED

OCT 15 1963

13728

TAKE NOTICE that the above-entitled case has been set for CONTINUATION OF HEARING ON MOTION at
SELMA, ALABAMA, on TUESDAY, OCTOBER 15, 1963, at 10:00 O'CLOCK A. M.
in the UNITED STATES COURT ROOM, 2ND FLOOR, OLD POST OFFICE BUILDING.

Date October 10, 1963

William J. O'Connor
William J. O'Connor, Clerk.

BY

Deputy Clerk.

To Honorable Burke Marshall
Assistant Attorney General
Department of Justice
Washington, D. C.

Honorable Blanchard McLeod
Circuit Solicitor
Camden, Alabama

Honorable John Doar, Attorney
Department of Justice
Washington, D. C.

Honorable Henry F. Reese, Jr.
County Solicitor
Selma, Alabama

Honorable Vernol R. Jansen, Jr.
United States Attorney
Mobile, Alabama

Honorable Thomas G. Gayle
Attorney
1104 1/2 Water Avenue
Selma, Alabama

Honorable Richmond M. Flowers
Attorney General of Alabama
Montgomery, Alabama

Honorable W. McLean Pitts
Attorney
City National Bank Building
Selma, Alabama

Honorable Gordon Madison
Assistant Attorney General
Montgomery, Alabama

Dockets

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ALABAMA

UNITED STATES OF AMERICA,)
 Plaintiff,)
VERSUS) CIVIL ACTION NO. 3064-63.
DALLAS COUNTY, ET AL,)
 Defendants)

Come the Plaintiff by its Attorneys and also come the Defendants by their Attorneys into open Court and the hearing on the Plaintiff's motion for a Preliminary Injunction is resumed.

Witnesses are examined, exhibits are offered in evidence and,

THEREUPON, the Plaintiff's motion is hereby taken under SUBMISSION by the Court.

Made at Selma, Alabama, this the 15th day of October A.D.,
1963.

DANIEL H. THOMAS

UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED AND ENTERED THIS THE
15TH DAY OF OCTOBER, 1963,
MINUTE ENTRY NO. 15739-H
WILLIAM J. O'CONNOR, CLERK,
BY:

W. J. O'Connor
Deputy Clerk

CCF 24 1203

IN THE U.S. DISTRICT COURT OF THE S. DISTRICT OF
ALABAMA

UNITED STATES OF AMERICA,)
Plaintiff,)
VERSUS) CIVIL ACTION NO. 3064-63.
DALLAS COUNTY, ET AL,)
Defendants)

It appearing to the Court that on October 15th, 1963, at Selma, Alabama, in open Court, the Plaintiff, UNITED STATES OF AMERICA, by its Attorney, the Honorable John Doar, orally moved the Court to dismiss the Defendant, MARTIN LUTHER KING, JR., as a Party Defendant, and,

Now, after consideration thereof,

IT IS ORDERED by the Court that the Plaintiff's Motion be, and the same hereby is, GRANTED and the Defendant, HENRY HARRIS is hereby dismissed as a Party Defendant herein.

Made at Mobile, Alabama, this the 22nd day of October A. D.,
1963.

~~DANIEL H. THOMAS~~
~~UNITED STATES DISTRICT JUDGE~~

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED AND RETURNED TO THE
22ND DAY OF OCTOBER, 1963.
MINUTE ENTRY NO. 15763
WILLIAM J. MCCONNOR, CLERK,
BY: *Wm J. Conner*
Deputy Clerk